

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Review of the Commission's)	
Broadcast and Cable)	MM Docket No. 98-204
Equal Employment Opportunity)	
Rules and Policies)	

To: The Commission

**COMMENTS OF
NATIONAL PUBLIC RADIO, INC.**

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, National Public Radio, Inc. ("NPR") hereby submits its Comments on the Commission's Second Notice of Proposed Rulemaking in the above-captioned proceeding proposing new broadcast equal employment rules.¹

NPR is a non-profit membership corporation that produces and distributes noncommercial educational programming through more than 600 public radio stations nationwide. In addition to broadcasting award winning NPR programming, including *All Things Considered*[®], *Morning Edition*[®], *Talk Of The Nation*[®], and *Performance Today*[®], NPR's Member stations originate significant amounts of news, informational, and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its Member stations.

¹ In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, Second Notice of Proposed Rulemaking, MM Docket 98-204, rel. Dec. 21, 2001 [hereinafter "Second NPRM"].

NPR and its Member stations appreciate and support the Commission's longstanding goal of fostering diversity within broadcasting. An important objective standing alone, equal employment opportunity also encourages a diversity of broadcast voices and programming responsive to local needs and interests.² Since its origins in the first part of the Twentieth Century, public radio has pursued a mission of producing and disseminating programming to meet the needs of audiences un-served and under-served by commercial media.

NPR Member stations are therefore keenly sensitive to the need to extend employment opportunities to all Americans. Indeed, a large portion of NPR's membership are governmental entities, including public educational institutions, which operate under Constitutional and other legal imperatives to assure equal employment opportunities.³ Other NPR Members are required by the Communications Act to establish and maintain community advisory boards, conduct public meetings and otherwise remain responsive to the needs of all individuals within their service area.⁴ For these and other reasons, public broadcasting in general and public radio in particular continue to lead in extending employment opportunities to all and otherwise serving the diverse needs of the American people.⁵

² See In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding, Report and Order, 15 FCC Rcd. 2329, at ¶ 21 (2000) ("[E]qual employment of minorities and women furthers the public interest goal of diversity of programming, both directly and by enhancing the prospects for minority and female ownership.").

³ U.S. Const. amend. XIV, § 1. See also Annotation, Public Institutions of Higher Learning as "Persons" Subject to Suit Under 42 U.S.C. § 1983, 65 A.L.R. Fed. 490.

⁴ 47 U.S.C. § 396(k)(4), (8).

⁵ See Corporation for Public Broadcasting, Public Broadcasting and The Needs of Minority and Diverse Audiences and Public Broadcasting's Services to Minorities and Other Groups at 2-3 (December 2001) reprinted at http://www.cpb.org/pdfs/minority/2001/01_minority_rpt.pdf; see also id. at 106 ("In public

In these circumstances, and particularly given the limited resources with which public broadcasters operate, we believe the Commission should consider modifying the proposed EEO requirements as they apply to public broadcast stations. As an initial matter, the non-discrimination prohibition and the first two prongs of the proposed outreach rules pose no objectionable burden, and it is reasonable to expect all broadcast licensees to refrain from discriminating, to recruit for all full-time vacancies, and to notify recruitment organizations of job vacancies when so requested by such organizations.⁶ Particularly given the ubiquity of the Internet, recruitment via the Internet is a fairly inexpensive means of achieving the objectives underlying Prong 1.⁷ The additional outreach requirements -- so-called "Outreach Prong 3" -- and the recordkeeping and reporting requirements, on the other hand, impose undue burdens on many governmental, institutional, and small broadcast licensees.

As noted above, many public radio stations are licensed to governmental entities or private universities and are subject to often complex and rigorous EEO compliance programs. These programs typically require extensive recruiting, recordkeeping, and reporting and are subject to enforcement by the Equal Opportunity Commission or other federal agencies. Imposing an additional layer of recruiting, recordkeeping, and reporting requirements is counterproductive and is likely to do little to advance the objective of equal employment opportunity.

For small broadcasters, the recruiting, recordkeeping, and reporting requirements appear

radio, where minorities comprise 18.6 percent of all employees, 23.1 percent of new hires in 1999 were from minority groups.").

⁶ See Second NPRM at ¶¶ 7-9.

⁷ See id. at ¶ 26. Accordingly, we believe stations should be able to satisfy the requirements of Prong 1 via Internet recruitment efforts, although stations should not be compelled to do so.

unnecessarily burdensome because such broadcasters typically do not experience significant job turn-over and generally lack the resources to devote to job fares, community events related to broadcast employment, scholarships, and similar outreach initiatives.⁸ A given station may operate for several years without having to hire a new full-time employee. Indeed, for such stations, the time and expense devoted to outreach, recordkeeping, and reporting would translate directly into fewer resources and less time for basic station operational matters.

Accordingly, we request that the Commission consider waiving the recruiting, recordkeeping, and reporting requirements for all stations that are subject to existing outreach requirements by virtue of their governmental or other institutional ownership status. In the case of small broadcast stations, the Commission should consider increasing the existing threshold from five to ten full time employees, at least with respect to the Prong 3 recruiting requirements and the corresponding recordkeeping and reporting requirements. Alternatively, the Commission might reduce the number of outreach initiatives, for instance from four to two, for stations with fewer than ten employees.

⁸ According to data compiled by the Corporation for Public Broadcasting, 125 CPB qualified radio stations operated with total revenue of less than \$500,000 in Fiscal Year 2001 and 215 stations operated with total revenue of less than \$1,000,000. By comparison, the Small Business Act defines a radio broadcasting station that has no more than \$5 million in annual receipts as a "small business." See 13 C.F.R. § 121.201, NAICS codes 513111 and 513112.

Conclusion

NPR supports the Commission's efforts to establish appropriate broadcast equal employment opportunity rules, including through the adoption of measures consistent with the foregoing comments.

Respectfully submitted,

NATIONAL PUBLIC RADIO, INC.

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